

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SELECT PORTFOLIO)
SERVICING, INC.,)
Plaintiff,)
v.) Docket No. 1:21-cv-00218-NT
VANESSA I. CAYFORD)
f/k/a VANESSA GARIEPY,) *Title to Real Estate Involved*
Defendant.)

OPR BK 14706 PGS 216-220 03/03/2023 10:38:44
INSTR # 2023003820 # OF PAGES 5
ATTEST: MATTHEW BOUCHER
REGISTER OF DEEDS KENNEBEC COUNTY, ME



JUDGMENT OF REFORMATION OF MORTGAGE

Title to Real Estate Involved

Address: 49 Yeaton Street, Waterville, Kennebec County, Maine
Mortgage: Book 7843, Page 265, in Kennebec County Registry of Deeds

This matter came before the Court on the default entered against Defendant Vanessa I. Cayford, formerly known as Vanessa Gariepy (ECF No. 9), and the Plaintiff's Motion for Default Judgment (ECF No. 18). A hearing was held on January 6, 2023 (ECF No. 25). Plaintiff, Select Portfolio Servicing, Inc., was represented by William Kennedy, Esq. and Andrew W. Sparks, Esq. of Drummond & Drummond LLP. Defendant Cayford has not appeared and has not opposed the Plaintiff's Motion for Default Judgment. In a separate order, which is hereby incorporated by reference, I granted the motion for default judgment. Order on Pl.'s Mot. for Default J. (ECF No. 28).

All persons interested having been duly notified in accordance with the law, and after consideration of the evidence, JUDGMENT on Count 3 of the Complaint is hereby ENTERED as follows:

⑤ -Drummond + Drummond

EXHIBIT
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1. The subject real estate is located at 49 Yeaton Street, Waterville, Kennebec County, Maine (the “**Property**”) as described in the deed from Derek A. Magee to Chiu Kin Leung dated September 10, 1991 and recorded in the Kennebec County Registry of Deeds on September 12, 1991 in Book 3977, Page 328. The Property is comprised of Lots 385, 386, 387, 427, 428, and 429 according to a plan of lots at Cool Street Heights Annex, dated July 5, 1923 and recorded in the Kennebec County Registry of Deeds in Plan Book 8, Page 73 (the “**Plan**”).

2. Chiu Kin Leung conveyed the Property to Vanessa Gariepy, now known as Vanessa Cayford. Due to a mutual mistake, Chiu Kin Leung’s conveyance of the Property to Vanessa Gariepy, through the deed dated August 6, 2001 and recorded in the Kennebec County Registry of Deeds on August 7, 2001 in Book 6581, Page 1, did not expressly include Lot 385.¹

3. Vanessa Gariepy, now known as Vanessa Cayford, executed a Mortgage on the Property in favor of GMAC Mortgage Corporation on February 19, 2004, which is recorded in the Kennebec County Registry of Deeds in Book 7843, Page 265 (the “**Mortgage**”). The Mortgage, however, did not include Lot 385 in the description of property encumbered in Schedule A/Exhibit A to the Mortgage. This failure was due to a mutual mistake on the part of Vanessa Gariepy, now known as Vanessa Cayford, and Plaintiff Select Portfolio Servicing, Inc.’s predecessor in interest, GMAC

¹ The deed conveying the Property to Vanessa Gariepy also mistakenly spells Mr. Leung’s name as “Chi Kin Leung” and “Chin Kim Leung.”

Mortgage Corporation, which mistake stemmed from a similar mutual mistake in the deed from Mr. Leung to Ms. Gariepy.

4. While this action was pending, Mr. Leung executed two deeds acknowledging the aforementioned mistake in his deed and conveying, among other things, any and all interest he had in Lot 385 as shown on the Plan to the Plaintiff. These deeds are recorded, respectively, in the Kennebec County Registry of Deeds in Book 14460, Page 317 and in the Kennebec County Registry of Deeds in Book 14662, Page 259 (the “**Leung Corrective Deeds**”).

5. The Plaintiff has consented, acknowledged, and agreed that, consistent with the reformation of the Mortgage discussed below, any and all interest that the Plaintiff has in the Property as a result of the Leung Corrective Deeds—including the portion consisting of Lot 385 as shown on the Plan—shall be conveyed to and owned by Vanessa Gariepy, now known as Vanessa Cayford.

6. Accordingly, any and all interest the Plaintiff has in the Property as a result of the Leung Corrective Deeds—including the portion consisting of Lot 385 as shown on the Plan—is hereby conveyed to and owned by Vanessa Gariepy, now known as Vanessa Cayford. Vanessa Gariepy, now known as Vanessa Cayford, therefore owns all six lots comprising the Property, Lots 385, 386, 387, 427, 428, and 429.

7. Furthermore, the Mortgage is hereby reformed, *nunc pro tunc*, so that the legal description of the property encumbered by the Mortgage in Schedule A/Exhibit A to the Mortgage expressly includes “Lot 385 according to a plan of lots at

Cool Street Heights Annex belonging to the A.F. Hutchinson Land Co., Inc., said plan being made by W.E. Branch, Surveyor, dated July 5, 1923 and recorded in the Kennebec County Registry of Deeds.”²

8. Specifically, the Mortgage is reformed, *nunc pro tunc*, so that the first full paragraph in the legal description of the property encumbered and secured by the Mortgage, which is contained in Schedule A to the Mortgage and titled “Exhibit A – Property Description,” is amended to read:

A certain tract or parcel of land, with the buildings thereon, situated in Waterville, County of Kennebec, State of Maine, being Lot Nos. 355, 356, 385, 386, 387, 427, 428, and 429 according to a plan of lots at Cool Street Heights Annex belonging to the A.F. Hutchinson Land Co., Inc., said plan being made by W.E. Branch, Surveyor, dated July 5, 1923 and recorded in the Kennebec County Registry of Deeds in Plan Book 8, Page 73.

The remaining paragraphs in Schedule A/Exhibit A are unchanged.

9. The following provisions are set forth pursuant to 14 M.R.S. § 2401:

a. The names and addresses, if known, of all parties to the action, including the counsel of record:

| Name and Address of Party: | Name and Address of Counsel: |
|--|---|
| Select Portfolio Servicing, Inc. 3217 S Decker Lane Dr. Salt Lake City, Utah 84119 <i>Plaintiff</i> | William J. Kennedy, Esq. Andrew W. Sparks, Esq. DRUMMOND & DRUMMOND, LLP One Monument Way Portland, Maine 04101 |
| Vanessa I. Cayford f/k/a Vanessa Gariepy 49 Yeaton Street Waterville, Maine 04901 <i>Defendant</i> | Pro se |

² The recorded Plan itself says “Ernest W. Branch, Civil Engineer,” but because the legal description in the relevant deeds and mortgage in this action all contain the language “said plan being made by W.E. Branch, Surveyor,” this Judgment uses the same descriptor.

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| Chiu Kin Leung Boston, Massachusetts <i>Defendant</i> | |
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- b. The docket number is Civil Action No. 1:21-cv-00218-NT.
 - c. The Court finds that all parties have received notice of the proceeding in accordance with the applicable provisions of the Federal Rules of Civil Procedure. Such notice was not given pursuant to an order of the Court.
 - d. The description of the real estate involved is real estate located at 49 Yeaton Street, Waterville, Kennebec County, Maine; being the same real estate conveyed and described in the deed from Derek A. Magee to Chiu Kin Leung dated September 10, 1991 and recorded in the Kennebec County Registry of Deeds on September 12, 1991 in Book 3977, Page 328; and being the same premises subject to the Mortgage, as reformed herein, dated February 19, 2004 and recorded in the Kennebec County Registry of Deeds in Book 7843, Page 265.
10. The Plaintiff is responsible for recording the attested copy of the judgment and for paying the appropriate recording fees upon entry of a final judgment in this action.

SO ORDERED.

/s/ Nancy Torresen

United States District Judge

SEAL

ATTESTED COPY

hereby attest and certify that this is a printed copy of
a document which was electronically filed with the
United States District Court for the District of Maine.
Dated filed: January 26, 2023

CHRISTA K. BERRY, CLERK

By: Tegan Snyder
January 27, 2023

Dated this 26th day of January, 2023.